

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

United States of America,
Plaintiff,
VS. Cause No. 3:16cr51
Thomas Muhammad Darwish,
Defendant. Greenville, Mississippi
11/10/2016
11:00 a.m.

Change of Plea Hearing
Before the Honorable Debra M. Brown
United States District Judge
Greenville, Mississippi

APPEARANCES LISTED ON FOLLOWING PAGE

REPORTED BY: Susan L. Alford, RPR, CSR #1229

APPEARANCES

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1 (November 10, 2016, Greenville,
Mississippi, Change of Plea Hearing, USA v. Darwish.)
2 (Call to order of the Court)

3 THE COURT: You may call the docket.

4 THE COURTROOM DEPUTY: The Court calls case
5 number 3:16CR51, *United States of America versus Thomas*
6 *Muhammad Darwish*.

7 THE COURT: This is a change of plea
8 hearing as to Count Three of the indictment. Would
9 counsel, please, introduce themselves for the record,
10 starting with government.

11 MR. ROBERTS: Paul Roberts for the
12 government.

13 MR. DAVIS: Scott Davis for the defendant.

14 THE COURT: And from probation?

15 PROBATION OFFICER: Yes, Your Honor. Kelly
16 Middleton.

17 THE COURT: Are you all ready to proceed?

18 MR. ROBERTS: Government is ready.

19 THE COURT: Please, come forward. You may
20 administer the oath to the defendant.

21 (Oath administered.)

22 Q. Mr. Darwish, do you understand that you are now
23 under oath and if you answer any question I ask you
24 untruthfully or falsely, that untruthful or false answer
25 may later be used against you in a prosecution of

1 perjury or making a false statement.

2 A. Yes, Your Honor.

3 Q. Do you understand you have the right to remain
4 silent and not answer any of my questions.

5 A. Yes, Your Honor.

6 Q. The court is advised that you wish to change
7 your plea to Count Three of the indictment; is that
8 correct?

9 A. Yes, Your Honor.

10 Q. Is it also correct you wish to do so pursuant
11 to a Plea Agreement with the government?

12 A. Yes, Your Honor.

13 Q. Mr. Darwish, there are certain questions I must
14 ask you so I make sure you are fully informed of your
15 rights and that you understand your rights and this
16 proceeding. There will be a number of questions that
17 begin with "do you understand." I'll ask you to bear
18 with me as we go through them and listen to each
19 question because your responses will absolutely
20 determine whether or not the Court decides whether or
21 not to accept your plea.

22 During all of this questioning, if you at
23 any point want to speak with your attorney, you can do
24 so. Also, if you do not understand any of my questions,
25 let me know and I will clarify the question for you.

1 So we are clear?

2 A. Yes, Your Honor.

3 Q. What is your full name?

4 A. Thomas Muhammad Darwish. I'm 25.

5 Q. How many years of school have you completed?

6 A. All high school and one year of college.

7 Q. One year of college. Are you presently under
8 the influence of any drugs, medicine, or alcohol?

9 A. No, Your Honor.

10 Q. Have you ever been treated for any mental
11 illness or addiction to drugs of any kind?

12 A. I've never been -- what is it called when you
13 go to -- I never went to a professional to be --

14 Q. You never had any psychological or psychiatric
15 evaluation; is that what you are looking for?

16 A. Yeah.

17 Q. You have not ever?

18 A. No.

19 Q. You haven't received any treatment independent
20 of any formal evaluation either; is that right?

21 A. No, Your Honor.

22 Q. Do you suffer from any mental condition or
23 disability that would affect your ability to understand
24 the charges against you or the consequences of a guilty
25 plea?

1 A. No, Your Honor.

2 THE COURT: Mr. Davis, have you spoken with
3 the defendant today and earlier about this proceeding
4 and what will happen today?

5 MR. DAVIS: Yes, Your Honor.

6 THE COURT: Is counsel for defendant of
7 record Mr. Park, and you are here in his stead?

8 MR. DAVIS: Yes, Your Honor.

9 THE COURT: Do have -- go ahead.

10 MR. DAVIS: I have sat in on some of the
11 meetings with Mr. Park and Mr. Darwish in advance of
12 today's hearing.

13 THE COURT: Do you have any questions or
14 concerns about the defendant's competency to enter a
15 plea.

16 MR. DAVIS: I have no concerns, Your Honor.

17 THE COURT: What about Mr. Roberts?

18 MR. ROBERTS: Your Honor, I have no reason
19 to doubt his competency.

20 THE COURT: Given these responses, as well
21 as the Court's own observations, the Court finds the
22 defendant is competent to enter a plea.

23 BY THE COURT:

24 Q. Mr. Darwish, have you received a copy of the
25 indictment pending against you in this case?

1 A. Yes, Your Honor.

2 Q. Have you fully discussed the charge in the
3 indictment and the case, in general, with your attorney?

4 A. Yes, Your Honor.

5 Q. In Count Three of the indictment, you are
6 charged with enticing and attempting to entice, using a
7 cell phone and Internet, a 15-year old minor to engage
8 in illicit sexual relations, in violation of Title 18,
9 USC, Section 2422(b).

10 Would you like the indictment to be read?

11 THE COURT: Or is reading waived, Mr.
12 Davis?

13 MR. DAVIS: We waive formal reading, Your
14 Honor.

15 BY THE COURT:

16 Q. Mr. Darwish, before you could be found guilty
17 of the charges in Count Three of the indictment, the
18 government would have to prove certain elements against
19 you beyond a reasonable doubt.

20 THE COURT: Mr. Roberts, would you please
21 advise the defendant of these elements.

22 MR. ROBERTS: Your Honor, the government
23 would have to prove, first, that the defendant knowingly
24 persuaded or induced or enticed or attempted to
25 persuade, induce, or entice an individual to engage in

1 sexual activity; second, that he used interstate or
2 interstate commerce to do so; third, that he believed
3 the victim was less than 18 years of age; fourth, that
4 had sexual activity occurred, the defendant could be
5 charged with the criminal offenses of either statutory
6 rape or sexual battery of a minor under the laws of the
7 state of Mississippi.

8 BY THE COURT:

9 Q. Mr. Darwish, having heard the elements that the
10 government would have to prove against you beyond a
11 reasonable doubt, do you have any questions about them?

12 A. No, Your Honor.

13 Q. Do you have any question, in general, about the
14 nature of the charges as to Count Three as read by the
15 government's counsel?

16 A. No, Your Honor.

17 Q. Next, I'm going to advise you of the possible
18 maximum penalties applicable to your case.

19 As to Count Three, they are imprisonment
20 for not less than 10 years and not more than life,
21 supervised release for not less than five years and not
22 more than life, a fine of not more than \$250,000, a \$100
23 mandatory special assessment, and an additional special
24 assessment of \$5,000.

25 If you are sentenced to serve time in

1 prison, Mr. Darwish, do you understand that you may be
2 subject to supervised release for a number of years
3 after your release from prison?

4 A. Yes, Your Honor.

5 Q. Do you also understand that if you violate one
6 or more of the conditions of supervised release, you may
7 be returned to prison for all or part of the supervised
8 release term?

9 A. Yes, Your Honor.

10 Q. With respect to the penalties that the Court
11 has advised you of, do you understand all of them?

12 A. Yes, Your Honor.

13 THE COURT: With respect to the Plea
14 Agreement that the defendant entered into with the
15 government that was mentioned at the outset, Mr.
16 Roberts, would you please state into the record its
17 substance.

18 MR. ROBERTS: Your Honor, the defendant
19 agrees to plead guilty to Count Three of the indictment
20 with the charges the Court just explained.

21 The United States agrees not to charge the
22 defendant with any other offense arising from or related
23 to that charge and to dismiss the remaining counts of
24 the indictment upon conclusion of sentencing.

25 The plea agreement does not bind any

1 prosecuting authority of state or federal district nor
2 does it bind the Attorney General in regard to tax
3 matters, criminal or civil. It also does not bind the
4 United States or any of its departments or agencies in
5 regard to civil or administrative actions or remedies.

6 Finally, there is a no contact agreement.
7 The defendant agrees that the Court should order as part
8 of the judgment and conditions of supervised release
9 that he shall have no contact with and not attempt to
10 contact the victim or victim's family during his
11 incarceration or subsequent term on supervised release.

12 I do want to make one point about this
13 issue. I have had conversations with the victim and her
14 parents. And she is a 15-year-old girl. And this --
15 Mr. Darwish is her first love. She is a little
16 concerned that this will prevent them from having
17 contact in the future. But I wanted to -- and I
18 explained to her and her family that I wanted to put
19 this in place so that if that contact were desired later
20 on that she would be able to initiate it rather than the
21 defendant.

22 THE COURT: All right.

23 MR. ROBERTS: So that's why I phrased it
24 like that. I don't know if that makes any sense, Your
25 Honor. But I tried to accommodate their wishes.

1 THE COURT: I understand.

2 MR. ROBERTS: Your Honor, the defendant
3 agrees if he violates the Plea Agreement, statements
4 made by him pursuant to the Plea Agreement will be
5 admissible against him, and he waives the provisions of
6 the Rules of Criminal Procedure and Evidence, which
7 would make such statements inadmissible.

8 He also recognizes if he violates the Plea
9 Agreement, he could be prosecuted for all federal
10 offenses committed, including false statements and
11 perjury.

12 There is an acknowledgement, Your Honor, in
13 which the defendant acknowledges that other than being
14 advised of the guidelines and the details in the plea
15 documents, no other promise or representation has been
16 made to him as to what punishment the Court might impose
17 if it accepts his guilty plea; that the agreement and
18 the plea documents reflect all promises, agreements, and
19 understandings between him and the U.S. Attorney; that
20 his plea agreement is free, knowing, and voluntary and
21 is not product of force, threat, or coercion; that he is
22 pleading guilty because he is, in fact, guilty of
23 charge.

24 I would note, Your Honor, in the Plea
25 Supplement, there is a Rule 11(c)(1)(C) agreement.

1 There is a mandatory minimum of 10 years. The parties
2 agree in the Plea Supplement, pursuant to 11 (C)(1)(c)
3 that the term of incarceration in this case be a term of
4 120 months or 10 years. Basically, we are right at that
5 mandatory minimum and agreeing that should be the
6 appropriate sentence, realizing should the Court reject
7 that, the defendant will have the right to withdraw his
8 guilty plea and proceed accordingly.

9 THE COURT: All right. As you stated, this
10 agreement that the parties have come to is based on the
11 mandatory minimum?

12 MR. ROBERTS: Yes, Your Honor.

13 BY THE COURT:

14 Q. Mr. Darwish, having heard the government's
15 counsel state his understanding of the agreement that
16 you entered into with the government, did he accurately
17 state it as you understand it to be?

18 A. Yes, Your Honor.

19 Q. If you have a copy of the Plea Agreement and
20 the Plea Supplement there with you, would you take a
21 look at both of them and, please, confirm for me that
22 the signature on both of those documents is, indeed,
23 your signature.

24 (The defendant complied.)

25 A. Yes, Your Honor.

1 Q. Did you have the opportunity to read and
2 discuss the contents of the Plea Agreement and Plea
3 Supplement with your attorney before you signed them?

4 A. Yes, Your Honor.

5 Q. Do you understand the terms of the Plea
6 Agreement and Plea Supplement?

7 A. Yes, Your Honor.

8 Q. I want to ask you, in particular with regard to
9 that term of the Plea Supplement that is based upon your
10 agreement with the government about the minimum sentence
11 that you all agreed to, do you understand that if I
12 choose not to follow that provision that you all have
13 agreed to -- because it is the Court's discretion
14 whether or not to accept it -- that I will give you an
15 opportunity to withdraw your guilty plea. But that if I
16 choose not -- but if you -- excuse me. I'm going to
17 start all over again and break this up.

18 You understand that the Court is not bound
19 to follow that provision as to the amount of your
20 sentence, right?

21 A. Yes, Your Honor.

22 Q. And if the Court does not -- chooses not to
23 accept it, then I'm going to give you the opportunity to
24 withdraw your guilty plea. Do you understand that?

25 A. Yes, Your Honor.

1 Q. Once I give you an opportunity to withdraw your
2 guilty plea, if I choose not to follow that term, if you
3 do not withdraw your guilty plea, then do you understand
4 that the Court can impose a more severe sentence than
5 what you agreed to with the government?

6 A. Yes, Your Honor.

7 THE COURT: With respect to the Plea
8 Agreement and Plea Supplement, Mr. Davis, did you
9 discuss either with Mr. Park or separately the Plea
10 Agreement and Plea Supplement with the defendant before
11 he signed them?

12 MR. DAVIS: Yes, Your Honor.

13 THE COURT: Were the facts of the case and
14 everything the government has relative to the case
15 discussed with the defendant?

16 MR. DAVIS: Yes, Your Honor.

17 THE COURT: Based on this, do you believe
18 that the defendant has entered into this plea freely and
19 voluntarily with full knowledge of the charges and the
20 consequences of the plea?

21 MR. DAVIS: I do, Your Honor.

22 THE COURT: If you all would, please,
23 provide the original copy of the Plea Agreement and Plea
24 Supplement to the courtroom deputy.

25 (Mr. Roberts complied.)

1 The Plea Agreement will be filed and the
2 Plea Supplement will be filed under seal.

3 BY THE COURT:

4 Q. Mr. Darwish, excluding your agreement with the
5 government as to the terms of the sentence that you all
6 agreed to -- which, of course, you understand the Court
7 does not have to accept -- has anyone made promises to
8 you as to what sentences you will receive as result of
9 your plea?

10 A. No, Your Honor.

11 Q. Do you understand that the offense to which you
12 are pleading guilty is felony offense and that, if your
13 plea is accepted, you will be adjudged guilty of that
14 offense and that such adjudication may deprive you of
15 valuable civil rights, such as the right to vote, the
16 right to hold public office, the right to serve on a
17 jury, and the right to possess any kind of firearm
18 whatsoever?

19 A. Yes, Your Honor.

20 Q. Do you also understand that a conviction for
21 this offense will likely result in substantial future
22 restrictions on where you live or work or with whom you
23 associate?

24 A. Yes, Your Honor.

25 Q. Do you also understand that a conviction for

1 this offense will likely subject you to register as a
2 sex offender in the state where you live or work?

3 A. Yes, Your Honor.

4 Q. In the Sentencing Reform Act of 1984, United
5 States Sentencing Commission has issued guidelines for
6 judges to follow in determining the sentence in a
7 criminal case. These guidelines are now only advisory,
8 meaning the Court does not have to follow them at all.

9 Let me, first, ask you whether or not you
10 and your attorney have talked about how the sentencing
11 guidelines might apply to your case?

12 A. Yes, Your Honor.

13 Q. Do you understand that Court will not be able
14 to determine the guideline sentence until after the
15 presentence report has been completed and you and your
16 counsel and the government have had an opportunity to
17 review that report and, if you like, challenge the
18 reported facts or the application of the guidelines to
19 your case?

20 A. Yes, Your Honor.

21 Q. Do you also understand that after your
22 guideline range has been determined, the Court has the
23 authority in some circumstances to depart upward or
24 downward from the guideline sentence, meaning that the
25 Court could impose a sentence that is either more severe

1 or less severe than what is called for by the
2 guidelines?

3 A. Yes, Your Honor.

4 Q. Do you understand that, regardless of the
5 guideline's range, the Court may sentence you to a term
6 of imprisonment for up to the maximum time allowed by
7 law?

8 A. Yes, Your Honor.

9 Q. Do you understand that the sentence imposed may
10 be different from any estimate your attorney may have
11 given you?

12 A. Yes, Your Honor.

13 Q. Do you also understand that parole has been
14 abolished and that, if you are sentenced to a term of
15 imprisonment, you will not be released on parole?

16 A. Yes, Your Honor.

17 Q. Do you understand that under some
18 circumstances, you or the government may have the right
19 to appeal any sentence that I impose?

20 A. Yes, Your Honor.

21 Q. Mr. Darwish, I'm next going to ask the
22 government to -- the government's attorney, rather, to
23 state the facts the government would be prepared to
24 prove at trial if your case went to trial.

25 I want you to listen carefully to what the

1 government's attorney will state because I will have
2 some questions for you afterwards about that statement.

3 THE COURT: Mr. Roberts?

4 MR. ROBERTS: Thank you, Your Honor. Your
5 Honor, at trial, the government would show that around
6 August 2015, the defendant Thomas Darwish met a then
7 15-year old minor female on an Internet social media
8 website.

9 Mr. Darwish, who was 24 years old at the
10 time, and the minor engaged in conversation that
11 eventually led to sharing images and contact by texting
12 and use of another Internet sites and a cellular
13 telephone application called Kik messenger. The pair
14 began to have an online sexual relationship.
15 Eventually, Mr. Darwish and the minor met on at least
16 one occasion between August 1st and September 25th -- I
17 believe it actually was September 26, 2015, traveled
18 from Oxford, Mississippi, where the minor resides and
19 where Mr. Darwish had moved to after meeting the minor
20 online to Senatobia in Tate County, Mississippi. Once
21 at Senatobia, Mr. Darwish and the minor obtained a hotel
22 room and had sexual intercourse numerous times. At that
23 time she was 15 and he was, again, 24.

24 Officials at Oxford High School became
25 aware of the relationship and alerted police and also

1 the victim's -- the minor's parents. The Oxford Police
2 Department obtained a search warrant and searched the
3 minor's school assigned computer and also her personal
4 cellular telephone, which was given to them by her
5 parents. On both devices, officers found incriminating
6 evidence including a Kik messenger chat log that
7 implicated Mr. Darwish in this relationship. They also
8 found photos that he had taken, apparently, of his penis
9 and photos of the minor that she had taken spreading her
10 labia and sending them to the defendant.

11 The Kik messenger chat log also indicated
12 the these visual depictions had been sent between the
13 two up through and including March of 2016 when the
14 relationship was discovered. Meta data from the images
15 of the -- the photos of minor's genitalia indicates
16 that the images of the minor had been taken at her
17 residence in Oxford, Lafayette County, Mississippi. In
18 the Kik messenger chat log, Your Honor, the defendant
19 and minor, the pair, talked about their trip to
20 Senatobia and the minor also talked about engaging in
21 sex with Darwish in Senatobia with a friend. I
22 excerpted and part of the chat log. We'll just say that
23 she admits in there that they had sex several times and
24 that she had actually lied to her parents about where
25 she was when it occurred. I'm not going to detail the

1 rest of it.

2 Your Honor, on the minor's cellular
3 telephone, officers found photos of her and Darwish and
4 the meta data associated with those photos indicate the
5 images were taken on September 26, 2015, at a latitude
6 and longitude address that coincides with America's Best
7 Value Inn & Suites which is located just to the left of
8 Interstate 55 in Tate County, Senatobia, Mississippi.

9 Once the investigation became known, the
10 evidence shows that Mr. Darwish left Oxford and moved to
11 Florida, apparently back to his father's residence. A
12 federal criminal complaint was obtained and Mr. Darwish
13 was arrested near Orlando, Florida, on the charge, on
14 this instant charge.

15 By judicial notice, the government would
16 show that both Lafayette County and Tate County,
17 Mississippi, are located within the Northern Judicial
18 District of Mississippi.

19 The government would also show by judicial
20 notice that Mississippi Law makes it illegal for a
21 person over 18 years of age to have sexual intercourse
22 or sexual contact with a minor who is least three years
23 younger than the person and who is under the age of 16.
24 Those sexual relations and activity are criminalized as
25 either statutory rape under Mississippi Code Section

1 97-3-65(a) or sexual battery of a minor under
2 Mississippi Code Section 97-3-95(1)(c). The government
3 would show also that the relationship and details and
4 arranging to go to Senatobia were done by cellular
5 telephone communications and by the Internet
6 communications.

7 THE COURT: All right.

8 BY THE COURT:

9 Q. Mr. Darwish, now, the government's attorney
10 said a lot. At the end there, he mentioned something
11 about things being in violation of Mississippi law and
12 that type of thing.

13 What I want to focus on are the facts.
14 Those facts, in particular, that concern your conduct.
15 Let me ask you, based upon what the government's
16 attorney has said with regard to your conduct, first,
17 did you understand everything that he said?

18 A. Yes, Your Honor.

19 Q. With regard to what the government's attorney
20 said about your conduct specifically, based on the
21 statement that he just put into the record, is it
22 correct that what he said about your conduct is true?

23 A. I don't believe that I seduced her, but I
24 believe that --

25 MR. DAVIS: May I have a moment, Your

1 Honor?

2 THE COURT: You may.

3 (Mr. Davis had an off-the-record discussion
4 with the defendant.)

5 THE WITNESS CONTINUED:

6 A. I agree with it, Your Honor.

7 BY THE COURT:

8 Q. Let me ask you that question again and make
9 sure that our record is clear and to make sure that you
10 understand the question that I'm asking you.

11 With regard to what the government's
12 attorney stated about you and about your conduct, is
13 that statement true and correct?

14 A. Yes, Your Honor.

15 Q. Do you have any questions about that statement
16 or anything that you would like to add with respect to
17 having the Court being advised of your conduct?

18 A. No, Your Honor.

19 Q. Are you voluntarily pleading guilty of your own
20 free will because you are, in fact, guilty?

21 A. Yes, Your Honor.

22 Q. Has anyone threatened you or threatened anyone
23 else or in any way attempted to force you to plead
24 guilty?

25 A. No, Your Honor.

1 THE COURT: Is there anything else counsel
2 wish the Court to ask in terms of complying with Rule
3 11?

4 MR. ROBERTS: Nothing from the government,
5 Your Honor.

6 MR. DAVIS: Not from the defense, Your
7 Honor.

8 THE COURT: The Court, then, finds there is
9 a factual basis for this defendant to plead guilty to
10 the charge.

11 BY THE COURT:

12 Q. Mr. Darwish, the next set of questions I will
13 ask you, after I ask you a few initial ones about your
14 representation, concern your constitutional rights and,
15 in particular, your waive of those rights.

16 Before I start that series of questions,
17 let me first ask whether or not you have had sufficient
18 opportunity to speak with your attorney and discuss your
19 case?

20 A. Yes, Your Honor.

21 Q. Are you satisfied with your attorney's
22 representation of you?

23 A. Yes, Your Honor.

24 Q. Do you believe that your attorney has
25 represented your best interests in this matter?

1 A. Yes, Your Honor.

2 Q. Now, do you understand that you have the right
3 to maintain a plea of not guilty?

4 A. Yes, Your Honor.

5 Q. Do you understand that, under the Constitution
6 and the laws of the United States, you are entitled to a
7 speedy and public trial by jury on the charges against
8 you?

9 A. Yes, Your Honor.

10 Q. Do you understand that at a trial, you would be
11 presumed innocent of the charges and the government
12 would be required to prove your guilt beyond a
13 reasonable doubt before you could be found guilty?

14 A. Yes, Your Honor.

15 Q. Do you understand that you would not be
16 required to prove your innocence at a trial?

17 A. Yes, Your Honor.

18 Q. Do you also understand that, during a trial,
19 the witnesses for the government would have to come into
20 court and testify in your presence, that your attorney
21 could cross-examine these witnesses for the government,
22 and that your attorney could also call other witnesses
23 to testify on your behalf?

24 A. Yes, Your Honor.

25 Q. Do you understand you have the right at trial

1 to compel the attendance of witnesses, in other words,
2 require them to come to court?

3 A. Yes, Your Honor.

4 Q. Do you also understand if you wish to testify
5 yourself in your own defense, you would have the right
6 at trial to do so?

7 A. Yes, Your Honor.

8 Q. Now, at trial, if you chose not to testify in
9 your own defense, do you understand the fact that you
10 did not testify could not be used against you?

11 A. Yes, Your Honor.

12 Q. Do you understand that if you had a trial and
13 were convicted, you would have the right to appeal your
14 conviction and your sentence?

15 A. Yes, Your Honor.

16 Q. If you plead guilty here today, Mr. Darwish,
17 and the Court accepts your plea, do you understand that
18 you are going to waive your right to trial by jury along
19 with all of the other constitutional rights that I have
20 just discussed with you?

21 A. Yes, Your Honor.

22 Q. So you understand, then, that if the Court
23 accepts your plea, there is not going to be a trial and
24 I'm going to enter a judgment of guilty and sentence you
25 on the basis of that judgment after considering a

1 presentence report?

2 A. Yes, Your Honor.

3 Q. Now, do you have any questions at all about
4 these rights?

5 A. No, Your Honor.

6 Q. Has your attorney, in particular, discussed the
7 waiver of these constitutional rights with you --

8 A. Yes, Your Honor.

9 Q. -- meaning that you would be giving them up?

10 A. Yes, Your Honor.

11 Q. Now, having discussed rights with your
12 attorney, including your right to waive certain matters,
13 is it still your wish to plead guilty to Count Three of
14 the indictment?

15 A. Yes, Your Honor.

16 Q. Now, before I ask you the next question, Mr.
17 Darwish, do you have any questions or concerns about
18 these proceedings or about anything we have discussed
19 thus far?

20 A. No, Your Honor.

21 Q. In the matter, then, of the *United States*
22 *versus Thomas Muhammad Darwish*, do you plead guilty or
23 not guilty to Count Three of the indictment?

24 A. Guilty, Your Honor.

25 THE COURT: It is the finding of the Court,

1 then, in the case of *United States versus Thomas*
2 *Muhammad Darwish*, the defendant is fully competent and
3 capable of entering an informed plea, that the defendant
4 is fully aware of the nature of the charges and of the
5 consequences of the plea, and that the plea of guilty is
6 a knowing and voluntary plea supported by an independent
7 basis in fact containing each of the essential elements
8 of the offense and not the result of force, threats, or
9 promises. The plea is, therefore, accepted, and the
10 defendant is now adjudged guilty of the offenses.

11 The Court, however, only conditionally
12 accepts the Plea Agreement as to the parties' agreement
13 of the term of incarceration for the defendant's
14 sentence.

15 Q. Mr. Darwish, a written presentence report will
16 be prepared by the probation officer to assist the Court
17 with sentencing. The probation officer will question
18 you for purposes of that report, and I encourage you to
19 be as open, honest, and forthright in your responses to
20 those questions because they will be incorporated into
21 the presentence report and I read absolutely every word
22 of that document in making my decision about what an
23 appropriate sentence is.

24 While the probation officer is questioning
25 you, you may have your attorney present while that

1 occurs. Also, after the presentence report has been
2 prepared, we are going to have the sentencing hearing.

3 At that sentencing hearing, you will have
4 the right, if you choose to exercise it, to tell the
5 Court anything you would like in your own words that you
6 want the Court to consider with respect to determining
7 your sentence. Now, after the presentence report has
8 been prepared, as well, you will have the chance to
9 review it, you and your attorney as well as the
10 government's attorney. If you see anything in that
11 report that you would like to challenge whether there
12 are reported facts or the application of the guidelines
13 to your case, then those are objections that you can
14 make and they will be advised -- the Court will be
15 advised about them through your attorney. You will have
16 the opportunity to look at those things and actually
17 raise any challenges to it that you wish.

18 Now, I am going to enter an order setting
19 the date for your sentencing hearing as March 16, 2017.

20 THE COURT: Does anyone today, Counsel,
21 know of any reason why that date is not going to work?
22 I believe it is a Thursday.

23 MR. ROBERTS: I'm not aware of any.

24 MR. DAVIS: Nor am I, Your Honor.

25 BY THE COURT:

1 Q. Mr. Darwish, that will be the date going into
2 this order setting sentencing. If for some reason the
3 presentence report is prepared earlier and it is
4 available earlier for the Court to review, then there is
5 a possibility your sentencing hearing may be set earlier
6 than March 16th. By the same set of circumstances, or
7 at least unforeseen circumstances, there may be an
8 opportunity for someone to ask for an extension for some
9 other reason, including some of the deadlines in that
10 report; so there is a possibility that the sentencing
11 could occur after March 16th as well if we run into
12 issues, I guess, in regard to having the presentence
13 report prepared or for some reason counsel or yourself
14 should consider additional matters.

15 For now, we are looking at March 16, 2017.

16 A. Thank you, Your Honor.

17 THE COURT: Is there anything further from
18 anyone with regard to this matter?

19 MR. ROBERTS: Not from the government, Your
20 Honor.

21 MR. DAVIS: Not from the defense, Your
22 Honor.

23 THE COURT: Given that and there being
24 nothing further, then, the defendant is remanded to the
25 custody of the United States Marshal; and this matter is

1 concluded.

2 MR. ROBERTS: Thank you, Your Honor.

3 THE DEFENDANT: Thank you, Your Honor.

4 (The change of plea hearing is concluded at

5 11:41 p.m.)

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C E R T I F I C A T E

"I, Susan L. Alford, Official Court Reporter for
the United States District Court, Northern Division,
Greenville, Mississippi, certify that the foregoing is a
correct transcript to the best of my ability from the
record of the proceedings in the above-entitled matter."

<u>\s\ Susan L. Alford</u>	<u>May 30, 2017</u>
Signature of Court Reporter	Date